



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

February 17, 2010

To: Audit Committee

From: William T Fujioka
Chief Executive Officer

PROPOSED POLICY ON RETENTION OF CONTRACTOR EMPLOYEES FOR SECURITY SERVICE CONTRACTS - REVISED

On November 10, 2009, we submitted to your Committee a proposed Policy on Retention of Contractor for Security Service Contracts, in response to a Board of Supervisors' (Board) instruction of June 9, 2009 concerning, among other issues, retention of employees of County security services contractors who default (Attachment I). At your Committee's meeting on January 21, 2010, questions were raised regarding retention employee status and retention duration. Upon further review, we believe the proposed Policy wording is clear in that contractor employees are not considered County employees, and we have revised the proposed Policy to further clarify the duration of the employee retention period (Attachment II). The revised policy is presented for your consideration and subsequent recommendation to the Board.

As previously stated and set forth in the attached revised draft policy, we are recommending this policy apply to new security service contracts and any substantive amendments to existing security service contracts.

If you have any questions or require additional information, please have your staff contact Ellen Sandt at (213) 974-1186 or esandt@ceo.lacounty.gov or James Hazlett at (213) 974-1148 or jhazlett@ceo.lacounty.gov.

WTF: ES:MKZ
FC:JH:pg

Attachments

c: All Department Heads

2010-02 - 02-17-10 Proposed Policy on Retention of Contractor Employees for Security Service Contracts - Revised

"To Enrich Lives Through Effective And Caring Service"

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Intra-County Correspondence Sent Electronically Only**



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August 11, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

Board of Supervisors
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SECURITY SERVICE CONTRACTS

On June 9, 2009, your Board directed the Chief Executive Office (CEO) to work with the County Counsel and various County departments to develop a countywide policy which addresses the issues arising out of a situation where a contractor providing security services for Los Angeles County at County buildings and facilities defaults on, or is unable to execute, the terms of such a security service contract, and where, due to exigent circumstances, the County is required to continue the provision of such security services without going out to competitive bid.

In addition, your Board directed that:

- County Counsel continue to represent the Board's position to pursue full payment of unpaid wages to employees retained under the County's contract with International Services, Incorporated (ISI) after ISI filed for Chapter 11 Bankruptcy and report back to your Board on the status of the ISI's bankruptcy case;
- County Counsel amend the language in the Living Wage Ordinance (County Code Chapter 2.201) (LWO) to include the Sheriff's Department; and
- The CEO, in conjunction with the Auditor-Controller, report back on the:
 - (1) protection included in as-needed contracts for retention of employees when a new contractor takes over a security service contract;
 - (2) definition of an as-needed contract, particularly as it relates to Proposition A (Prop A) responsibilities;
 - (3) current cost of as-needed contracts; and
 - (4) wages for as-needed employees versus those employed under a living wage contract.

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The memorandum responds to all of the above directions.

Board Policy on Retention Rights of Employees of Defaulted Security Firms

In response to your Board's direction, this Office worked with County Counsel and the four County departments that currently engage third party firms to provide security services (Sheriff's, Office of Public Safety, Public Works, and Fire), to develop a draft Board policy (Attachment) titled "Retention of Contractor Employees for Security Service Contracts." This proposed policy will be submitted to the Audit Committee and thereafter to your Board for consideration.

In summary, the proposed policy will require County departments to include specified contract language in all new security service contracts and amendments that will extend the employee retention protections provided by LWO to existing security service contracts. This will apply to contracts entered into without a competitive bid in order to replace a defaulted security service contract under which the contractor defaults on, or is unable to execute, the terms of such security service agreement.

Board Position in Bankruptcy Proceedings for ISI

Additionally, in response to your Board's direction, County Counsel continues to represent the Board's position to pursue full payment of unpaid employee wages by ISI. Your Board has been and will continue to be briefed separately by County Counsel on the status of ISI's bankruptcy proceedings. Your Board previously received a confidential memorandum from County Counsel dated June 24, 2009. Your Board will also be briefed in closed session on the status of ISI's bankruptcy proceedings at a future Board meeting in August 2009.

Applicability of Living Wage Ordinance to Sheriff's Department

Your Board directed County Counsel to amend the language in the LWO to include the Sheriff's Department. It has since been determined the Sheriff's Department is not exempt from the LWO and, therefore, LWO does not need to be amended to include the Sheriff's Department.

It is important to note that LWO applies to Prop A and cafeteria services contracts only as defined in County Code Chapter 2.201.020. The reason LWO did not apply to the Sheriff's security service contract with ISI was because the contract was not considered a Prop A contract, due to the fact that the services were needed on a part-time or intermittent basis (i.e., as-needed) only. The Sheriff's Department indicated the contract with ISI was to supplement County security guards assigned to County courthouses and facilities who may be unavailable due to absences and other situations. As such, the services are considered as-needed and exempt from LWO (see below section entitled "As-Needed Security Service Contracts").

As-Needed Security Service Contracts

Your Board requested a report back on what protection is included within as-needed contracts for the retention of employees in the event that a new contractor takes over a security service contract. Because contracts for as-needed services, including but not limited to security services, generally are exempt from Prop A and, therefore, not subject to LWO, neither County Code nor County policy currently require contracts for as-needed security services include

Each Supervisor
August 11, 2009
Page 3

provisions for retention protection. The attached proposed policy on Retention of Contractor Employees for Security Service Contracts, once approved by your Board, will require new contracts (and amendments to existing contracts) for as-needed security services include contract provisions for retention protection under the circumstances described in the proposed policy (see above).

Additionally, your Board requested a report back on a definition of what an as-needed contract entails, particularly as it relates to Prop A responsibilities. As indicated above, as-needed contracts are those contracts under which the services are needed only on a part-time or intermittent basis. As-needed contracts generally are exempt from Prop A, and therefore, as referenced above, are not subject to LWO.

Finally, your Board requested a report back on the current cost of as-needed contracts and wages for as-needed employees versus those employed under a living wage contract. Of the four departments with third party security service contracts referenced above, only the Sheriff's Department's contract is on an as-needed basis. The Sheriff's Department's estimated cost under this contract for as-needed security services is \$1,750,000 per year.

With respect to hourly wages, LWO requires contractor employees to be paid \$11.84 per hour without health benefits, or \$9.64 per hour with health benefits. The hourly wages under the Sheriff's Department's contract for as-needed security services, all without benefits, are as follows:

	12/4/2008 – 12/3/2009	12/4/2009 – 12/3/2010	12/4/2010 – 12/3/2011**	12/4/2011 – 12/3/2012**	12/4/2012 – 6/3/2013**
Supervisor	\$12.81	\$13.13	\$13.46	\$13.79	\$14.13
Armed Officer	\$12.65	\$12.97	\$13.29	\$13.62	\$13.96
Unarmed Officer	\$11.28*	\$11.56*	\$11.85	\$12.14	\$12.44

* Hourly wage below LWO

** Optional Years

Should you have questions regarding this memorandum, please let me know, or have your staff contact James Hazlett at (213) 974-1148 or jhazlett@ceo.lacounty.gov.

WTF:ES:MKZ
FC:JLH:pg

Attachment

c: Sheriff
Executive Officer, Board of Supervisors
Auditor-Controller
Acting County Counsel
Fire Chief
Chief, Office of Public Safety
Director, Department of Public Works



Los Angeles County
BOARD OF SUPERVISORS POLICY MANUAL

ATTACHMENT

Policy #:	Title:	Effective Date:
0.000	Retention of Contractor Employees for Security Service Contracts	00/00/00

PURPOSE

Requires contract provisions regarding the retention of certain qualified security personnel who are providing security services for Los Angeles County at County buildings and facilities where: (1) a contractor providing security services at such County buildings and facilities defaults on, or is unable to execute, the terms of a security service contract, and (2) due to exigent circumstances, the County is required to continue the provision of security services without conducting a competitive solicitation.

REFERENCE

June 9, 2009 Board Order, Agenda Item Numbers 70 and 71

July 22, 2009 Chief Executive Office memo "Security Service Contracts"

POLICY

New security service contracts, and substantive amendments to existing security service contracts, shall include security personnel retention provisions in a form substantially similar to the following, in situations where, due to exigent circumstances stemming from a contractor's default or inability to execute the terms of a security services contract, the County procures security services without conducting a competitive solicitation:

- The Contractor shall offer employment to all Retention Employees who are qualified for such jobs. A "Retention Employee" is an individual who: (a) is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; (b) has been employed by a contractor under a predecessor security services contract with the County for at least six (6) months prior to the date of this [Contract][Amendment]; and (c) is or will

be terminated from his or her employment as a result of the County entering into this [Contract] [Amendment].

- The Contractor shall not be required to hire a Retention Employee who: (a) has been convicted of a crime related to the job or his or her performance; or (b) fails to meet any other County requirement for employees of the Contractor.
- The Contractor shall not terminate a Retention Employee for the first sixty (60) days of employment under the Contract, except for cause. Thereafter, the Contractor may retain a Retention Employee on the same terms and conditions as the Contractor's other employees.

RESPONSIBLE DEPARTMENT

Chief Executive Office

County Counsel

DATE ISSUED/SUNSET DATE

Issue Date: July XX, 2009

Sunset Date: July XX, 2013



Los Angeles County
BOARD OF SUPERVISORS POLICY MANUAL

ATTACHMENT II

REVISED

Policy #:	Title:	Effective Date:
0.000	Retention of Contractor Employees for Security Service Contracts	00/00/00

PURPOSE

Requires contract provisions regarding the retention of certain qualified security personnel who are providing security services for Los Angeles County at County buildings and facilities where (1) a contractor providing security services at such County buildings and facilities defaults on, or is unable to execute, the terms of a security service contract, and (2) due to exigent circumstances, the County is required to continue the provision of security services without conducting a competitive solicitation.

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August 11, 2009 Chief Executive Office memo "Security Service Contracts"

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New security service contracts, and substantive amendments to existing security service contracts, shall include security personnel retention provisions in a form substantially similar to the following, in situations where, due to exigent circumstances stemming from a contractor's default or inability to execute the terms of a security services contract, the County procures security services without conducting a competitive solicitation:

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- The Contractor shall not be required to hire a Retention Employee who: (a) has been convicted of a crime related to the job or his or her performance; or (b) fails to meet any other County requirement for employees of the Contractor.
- The Contractor shall not terminate a Retention Employee for the first ninety (90) days of employment under the Contract, or prior to the termination of the Contract, whichever period is shorter, except for cause. Thereafter, the Contractor may retain a Retention Employee on the same terms and conditions as the Contractor's other employees.

RESPONSIBLE DEPARTMENT

Chief Executive Office

County Counsel

DATE ISSUED/SUNSET DATE

Issue Date: March XX, 2010

Sunset Date: March XX, 2014